

REMARKS

1. Summary of the Office Action

In the office action mailed August 23, 2007, the Examiner rejected claim 1 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the invention. Further, the Examiner rejected claim 1 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Further, the Examiner rejected claims 1-11 under 35 U.S.C. § 103 as allegedly being unpatentable over Burson-Marsteller's e-fluentials research, as disclosed in Burson-Marsteller's archived e-fluentials web site (hereinafter "E-fluentials"), in view of the article "Ninety Percent of Online Influentials Turn to Company Web Sites for Corporate Information, but Only 17 Percent Find Them Credible" (hereinafter "Ninety Percent").

The Examiner did not indicate whether Applicant's amendments to the specification dated June 21, 2007 were accepted and entered.

2. Status of the Claims

Applicant has amended claims 1-3, 6-8, and 11. No new matter has been entered. Still pending are claims 1-11, of which claims 1 and 6 are independent and the remainder are dependent.

3. Responses to the Rejections

A. The 35 U.S.C. § 112 Rejection

The preamble of claim 1 sets forth the invention as "[a] method for identifying individuals in a population having a greater probability than other individuals in the population of influencing the choices made by others." The body of the claim describes steps that accomplish what the preamble sets forth. Claim 1 as a whole is therefore consistent with the

provisions of 35 U.S.C. § 112, second paragraph. Accordingly, Applicant requests that the rejection under 35 U.S.C. § 112 be withdrawn.

B. The 35 U.S.C § 101 Rejection

Claim 1 recites the practical application of applying the database scoring algorithm to the demographic variable data for the second population, which results in a determination of a group of influential individuals. Without conceding the Examiner's assertion that claim 1 as was previously presented was a mere abstraction, Applicant asserts that claim 1 is at least allowable for the reason that it shows practical application by producing a useful, concrete, and tangible result. Accordingly, Applicant requests that the rejection under 35 U.S.C. § 101 be withdrawn.

C. The 35 U.S.C. 103 Rejection

Claims 1 and 6 are directed towards methods for "identifying from demographic data those individuals in a population having a greater probability than other individuals in the population of influencing the choices made by others." In both of these claims influential individuals in a first population are identified. According to claims 1 and 6, demographic data is provided for each individual in the first population, and those demographic variables that substantially correlate to an individual in the first population being an influential are identified as predictive variables. These predictive variables are then used to create a database scoring algorithm. This algorithm is then applied to demographic data for a second population to determine a group of influential individuals in the second population.

In contrast to the claimed invention which relies on determining predictive demographic variables that correspond to influential status, E-fluentials and Ninety Percent describe a method in which so-called "e-fluentials" are determined solely through responses to online behavioral surveys. Despite abstract language in the references which states that "[t]o select e-fluentials, a predictive algorithm was used based on earlier research," there is nothing that actually suggests that the E-Fluentials algorithm consists of anything more than evaluating responses from these

behavioral surveys. Rather, the archived web pages that the Examiner cites suggests that the so-called "predictive algorithm" is entirely based on answers to a survey (e.g., a user may simply enter responses via the website behavioral survey and, without providing any demographic information at all, is told immediately whether the user is an *e*-fluential). In addition, on page 11 of the Examiner-cited document "The *e*-fluentials" (archived Feb. 15, 2003 at http://web.archive.org/web/20030203134315/http://efluentials.com/pdfs/efluentials_short.pdf), under the heading "Methodology," the report states that *e*-fluentials were identified using an online survey that analyzed "similar patterns of online behavior." Thus, the algorithm of *E*-fluentials and Ninety Percent consists entirely of analyzing the responses to targeted survey questions about the activities and behavior of the individual, and does not consider an individual's demographic data.

Further, the "E-fluentials" and "Ninety Percent" references cited by the Examiner actually teach away from the current invention. On page 10 of the document "The *e*-fluentials," (cited above) the reference states that "*e*-fluentials cannot easily be identified by demographics alone." The cited art goes on to state that "[*e*-fluentials] can only be found by closely examining their attitudes, perceptions and behaviors." Thus, the cited art specifically discounts the ability of demographic data to predict whether a person is influential. Further, the cited art goes on to state that such a determination can *only* be made by examining data that *does not include* demographic data (i.e. attitudes, perceptions and behaviors).

Because *E*-fluentials and Ninety Percent do not disclose utilizing demographic data in determining whether a person is an *e*-fluential – and instead *teaches away* from such use – the cited art does not disclose at least the steps of "identifying a plurality of predictive variables from the set of demographic variables such that the demographic data corresponding to the plurality of predictive variables substantially correlates to an individual in the first population being determined to be influential," or "applying the database scoring algorithm to the demographic data for the second population to determine a group of influential individuals, wherein the group of influential individuals represent a subgroup of the second population that is predicted to have a higher probability of being influential with respect to the second population in general."

Accordingly, claims 1 and 6 are patentable over the cited art. Further, because claims 2-5 and 7-11 depend from independent claims 1 and 6, Applicant submits that these claims are also patentable over the cited art. *See* MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Thus, Applicant respectfully requests that the rejection under 35 U.S.C. § 103 be withdrawn.

4. Conclusion

Applicant submits that all claims are in condition for allowance and respectfully requests notice to that effect. Should the Examiner wish to discuss the case with the undersigned, the Examiner is invited to call the undersigned at 312-701-8298.

5. Fee Authorization

The Commissioner is hereby authorized to charge any additional fees (or credit any overpayment) associated with this communication to our Deposit Account No. 13-0019. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to the above-listed Deposit Account.

Respectfully submitted,

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By: /mjw/

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